

## 86. At what age can a person consent to an HIV test?

Parents or legal guardians generally have the authority to consent to HIV testing for infants and young children who do not have the ability to understand and make an informed decision about testing. However, once a person has the capacity to consent – no matter what age – he or she can have an HIV test without parental knowledge or consent (see question 37).

## 87. If an adolescent gets tested for HIV, will the parents or guardians be told about the test result?

Parents or guardians will not be told the test result if the adolescent being tested shows *capacity to consent* to the HIV test (see question 37). The laws that protect confidentiality of HIV-related information apply, no matter what the person's age or whether the person has parental consent or parental involvement (see question 94).

There are certain times when a parent or guardian of an adolescent who gave informed consent can be told confidential HIV-related information – for example, if the adolescent is being abused or needs urgent care. If it is best for the adolescent, HIV-related information should be kept strictly confidential.

# Public Health Law Relating to HIV Reporting and Partner Notification

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## 88. What are the Public Health Law provisions regarding HIV case reporting and partner notification?

In New York State, HIV reporting means that doctors and laboratories must report all cases of HIV infection to the New York State Department of Health. Public Health Law requires HIV case reporting by name so that the Department of Health can accurately monitor the HIV epidemic, assess how the epidemic is changing, and create programs for HIV prevention and medical care that best serve affected people and communities. All reported information is protected by strict confidentiality laws.

Partner notification is important so that people can become aware of their HIV risk and receive HIV counseling and testing. Then they can take steps to protect themselves and their loved ones and get medical care sooner if they are infected. Giving doctors or the Health Department the names of partners is voluntary. While doctors are required to report known partners of their HIV-infected patients to the Health Department for the purpose of partner assistance, doctors are also required to talk with their patients about how they would prefer to let sex partners and needle-sharing partners know they may have been exposed to HIV. See question 90 for more information on partner notification options and

assistance available through the PartNer Notification Assistance Program (PNAP) or the Contact Notification Assistance Program (CNAP) in New York City.

The national Centers for Disease Control and Prevention have issued guidelines urging all states to collect and report data on HIV cases to track the epidemic on a national basis. Within the next several years, HIV data will become the basis for funding formulas that allocate federal money for HIV care and treatment under the Ryan White CARE Act.

### **89. When the name of a person who tests HIV positive is reported to the New York State Department of Health, is that information shared with other government agencies?**

**No.** Under the law, identifying information about people who have HIV can only be used to help the State Department of Health track the epidemic and for partner notification. Information cannot be shared with other government agencies like the Immigration and Naturalization Service (INS), police, welfare agencies, insurance companies, landlords, or private agencies. The confidentiality of all HIV-related information is protected by New York State Public Health Law.

### **90. How are partners of people who test HIV positive notified?**

Persons who test HIV positive can choose from the following options how they would like to have their partners informed that they have been exposed to HIV:

- A counselor from the New York State Health Department PartNer Assistance Program (PNAP) or the Contact Notification Assistance Program (CNAP) in New York City can tell their partners without revealing the identity of the person.
- People can tell their partners with the help of their doctor or PNAP/CNAP counselor.
- People can tell their partners themselves.

Help from PNAP/CNAP is free. For more information, call the New York State Department of Health HIV/AIDS Hotline (see the Resources section). In New York City, call CNAP toll-free at 1-888-792-1711.

### **91. Are people who test HIV positive required to tell their doctor or counselor the names of their partners?**

**No.** A person who tests HIV positive may be asked about his or her partners but is not legally required to reveal names. People cannot be punished or have treatment denied if they do not disclose the names of their partners to a doctor or public health worker. However, people with HIV should know the options they have for partner notification and understand how vitally important it is for partners to know of their possible exposure to HIV so that they can get tested and get treatment if they are infected.

## **92. Can doctors notify the partners of a patient with HIV without the patient's permission?**

**Yes.** If a doctor knows the name of a patient's partner, the doctor can notify the partner without the patient's consent. However, the doctor must tell the patient that he or she intends to do this.

## **93. What happens if a person who tests HIV positive thinks that a partner will react violently if notified?**

If a person who tests HIV positive is concerned that notifying a partner may seriously affect their health or safety, or the health and safety of someone close to them, such as a child, the person is referred for domestic violence services. Partner notification is delayed until it is safe to proceed. For information about programs providing domestic violence services, call the New York State Domestic Violence Hotline at 1-800-621-HOPE.

# **Human Rights**

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## **94. Are there laws in New York State that protect the confidentiality of people with HIV and AIDS?**

**Yes.** The HIV Confidentiality Law (Public Health Law, Article 27-F) was enacted in 1988 in New York State. Agencies and individuals who provide health or social services as defined by the law, or who receive HIV-related information through a signed release, must protect the confidentiality of that information. This law does allow for disclosure of HIV-related information between members of a health care team, to emergency workers, or to social service agencies for the care of the patient. The law also allows for the release of HIV information by special court order to public health officials and to insurers who pay for care and treatment.

People who feel that HIV-related information has been released without their consent can contact the New York State Department of Health Confidentiality Hotline at 1-800-962-5065 to request a "breach of confidentiality" form. Penalties for unauthorized disclosure of confidential HIV-related information by health care workers or social service workers include fines and/or time in jail.

## **95. Will testing positive for HIV affect an immigrant's ability to stay in the United States?**

Not necessarily. Although HIV testing is not required for entry into the United States, having HIV/AIDS is a reason for being denied entry into the U.S. Individuals who are excluded on that basis may seek a waiver. To get a waiver, they must: